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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 25.09.2023

CORAM:

THE HONOURABLE MR. JUSTICE **G.K.ILANTHIRAIYAN**

W.P.No.15998 of 2013
and M.P.No.1 of 2013

1. Tamilnadu State Transport
Corporation's Employees Federation,
Affiliated to AITUC,
Rep. by its General Secretary,
No.2, Kalayarangam Complex,
Pallavan Salai,
Chennai – 2.

2. Tamilnadu Transport Corporations
Retired Employees Welfare Association,
Rep. by its President,
No.2, Kalayarangam Complex,
Pallavan Salai,
Chennai. ...Petitioners

-Vs-

1. Government Of Tamil Nadu,
Rep. By Its Secretary,
Transport Department,
Fort St. George, Chennai-9.

2. The Secretary
Government Of Tamil Nadu,
Transport Department,
Fort St. George, Chennai-9.

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3. Metropolitan Transport
Corporation Limited
Rep. By its Managing Director,
Pallavan Salai, Chennai-2.

4. State Express Transport
Corporation Ltd,
Rep. By Its Managing Director,
Pallavan Salai, Chennai-2.

5. Tamil Nadu State Transport
Corporation (Villupuram) Ltd,
Rep. By Its Managing Director,
Vazhudareddy,
Villupuram.

6. Tamil Nadu State Transport
Corporation (Salem) Ltd,
Rep. By Its Managing Director,
No.12, Ramakrishna Road, Salem.

7. Tamil Nadu State Transport
Corporation (Coimbatore) Ltd,
Rep. By Its Managing Director,
No.37, Mettupalayam Road,
Coimbatore.

8. Tamil Nadu State Transport
Corporation (Kumbakonam) Ltd,
Rep. By Its Managing Director,
Railway Station Road, Kumbakonam.

9. Tamil Nadu State Transport
Corporation (Madurai) Ltd,
Rep. By Its Managing Director,
Bye Pass Road, Madurai-2.

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10. Tamil Nadu State Transport
Corporation (Thirunelveli) Ltd,
Rep. By Its Managing Director,
Vannarpettai,
Thirunelveli-627 003. ... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Declaration, declaring that the action of the respondents in stopping the payment of monthly pension payable under Post Retirement Benefit Scheme 1992 which was framed and brought for implementation by a 12 (3) settlement dated 30.09.1992 as illegal and unconstitutional and consequently direct the first respondent, to initiate criminal proceedings against the respondents 2 to 10 for breach and violation of the 12 (3) settlement dated 30.09.1992 and the terms and conditions of Post Retirement Benefit Scheme and the respondents 2 to 10 to pay forthwith the monthly pension payable under the said scheme from the date on which the payment of monthly pension was stopped and also to continue to pay monthly pension in accordance with the scheme to all the employees who are covered under the scheme without any deviation or change, award costs.

For Petitioner : Mr.V.Ajoy Khose

For Respondents
For R1,2,4,9 &10: Mr.L.S.M.Hasan Fizal
Additional Government Pleader
For R3 : Mr.R.Balaji
Standing Counsel
For R5 : Ms.S.Pavithra
Standing Counsel

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For R6 : Mr.R.Babu
Standing Counsel
For R7 : Mr.A.Sundaravadanam
Standing Counsel
For R8 : Mr.C.Senapathi
Standing Counsel

ORDER

The writ petition has been filed to declare the action of the respondents in stopping the payment of monthly pension payable under Post Retirement Benefit Scheme 1992 which was framed and brought for implementation by a 12(3) settlement dated 30.09.1992 as illegal and unconstitutional and consequently direct the first respondent, to initiate criminal proceedings against the respondents 2 to 10 for breach and violation of the 12(3) settlement dated 30.09.1992.

2. It is seen that the issue involved in this petition has already been settled by the Hon'ble Division Bench of this Court in the similar matter, by an order dated ***19.07.2023*** in ***W.A.No.1774 of 2011*** in the case of ***The Administrator, Tamil Nadu State Transport Corporation Employees Post Retirement Welfare Fund Scheme, Vs. The State Transport Corporation Retired Employees Welfare Association and***

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ors. The relevant portion is extracted hereunder :-

"25.Under the 1992 Welfare Scheme, those who joined in the Scheme, after retirement, will be entitled to get the benefit as per Table-1 of Clause 36 for the lifetime but that has been modified at the time of reimplementation of the Scheme by virtue of 2015 settlement where they restricted the benefit for those who retired on or before 31.08.1998 for a sum of Rs.1,000/- per month till their lifetime.

26.Insofar as others are concerned, that means, those employees who retired after 01.09.1998 is concerned, they are entitled to get the benefit out of 1992 Scheme for a period of fifteen years from the date of retirement. With regard to this modified benefit there could be no quarrel.

27.However, under the 2018 Settlement the very 1992 Welfare Scheme itself was decided to be stopped by stopping the collection of contribution of the employees.

28.However, those employees who retired on or before 31.08.2016 is concerned, certainly since 2015 Settlement i.e., modified 1992 Scheme since has been re-implemented alone would be made applicable, whether those employees who retired on or before 31.08.2016 would be entitled to get the benefit under the modified 1992 Scheme as per the 2015 Settlement is the only

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question to be answered by this Court.

29.Insofar as those employees are concerned i.e., the employees who entered into service prior to 1998, become the member of 1992 Welfare Scheme, continue to serve the Corporation for several years and retired from service on or before 31.08.2016 are concerned, the original scheme of 1992 as well as the modification as envisaged in 2015 Settlement alone would apply. Therefore, the import of 2018 Settlement cannot be imposed against those employees retired on or before 31.08.2016.

30.In the result, this writ appeal is disposed of with the following order:

"That the employees including the members of the first respondent Association who become the member of the Welfare Scheme of 1992, continue to work beyond 01.09.1998 and retired at any point of time before 31.08.2016 would be entitled to get the benefit of 1992 Welfare Scheme for a period of fifteen years from the date of retirement.

31.We make it clear that those employees who retired on or after 01.09.2016 would not be entitled to get such benefit arising out of 1992 Scheme. Instead they would be governed by the terms of 2018 Settlement dated 04.01.2018."

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3. With the above observations, this Writ Petition is disposed of. Consequently, connected miscellaneous petition is closed. There shall be no order as to cost.

25.09.2023
(3/3)

Internet: Yes
Index : Yes/No
Speaking/Non Speaking order

rts

1. The Secretary,
Government Of Tamil Nadu,
Transport Department,
Fort St. George, Chennai-9.

2. The Managing Director
Metropolitan Transport
Corporation Limited
Pallavan Salai, Chennai-2.

3. The Managing Director,
State Express Transport
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Pallavan Salai, Chennai-2.

4. The Managing Director
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G.K.ILANTHIRAIYAN. J,

rts

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